

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KERRY L. BRIGHAM,

Plaintiff,

Case No: 21-253

-VS-

TARGET CORPORATION,
a domestic profit corporation,

Defendant.

NOTICE OF REMOVAL

TO: The United States District Court
Western District of Michigan
Southern Division

NOW COMES the Defendant, TARGET CORPORATION, a Minnesota Corporation, by and through its attorneys, the Law Office of Mark D. Willmarth, and hereby removes this action and gives notice to plaintiff of the removal of this action from the Circuit Court of the State of Michigan, County of Kalamazoo, to the United States District Court for the Western District of Michigan, Southern Division, and respectfully shows unto this Court as follows:

1. That TARGET CORPORATION is the only defendant in a civil action brought against it in the Circuit Court for the County of Kalamazoo, State of Michigan, entitled “KERRY L. BRIGHAM, Plaintiff, -vs- TARGET CORPORATION, a domestic profit corporation, Defendant, Case No: 2020-0373-

NO, and that attached hereto are Exhibit 1, Summons, Complaint and Jury Demand; Exhibit 2, Appearance and Notice of Appearance; Exhibit 3, Answer to Complaint, Affirmative Defenses, and Notice of Reliance on Demand for Jury Trial; Exhibit 4, Civil Proceedings Scheduling Order; Exhibit 5, Stipulated Protective Order; Exhibit 6, Stipulation and Order for First Extension of Case Dates; Exhibit 7, Amended Civil Proceedings Scheduling Order; and constitute all process and pleadings served by and upon the parties in such action; and that no further proceedings have been had therein.

2. That the above-captioned action is a civil action over which this Court has original jurisdiction under the provisions of Title 28, United States Code, Section 1332(a) and is one which may be removed to this Court by the petitioner, defendant herein, pursuant to the provisions of Title 28, United States Code, Section 1441(a), in that it is a civil action wherein the plaintiff claims damages in an amount in excess of \$75,000.00, exclusive of interest, costs and attorney fees, by virtue of the claim for loss of income in the amount of \$93,916.00 in the years 2017, 2018 and 2019 alleged to be due to the injuries to plaintiff's traumatic brain injury and post-concussion syndrome claimed to be due to the alleged incident at the Kalamazoo Target in this case together with the claim of future loss of income which she claims arises from the incident in this case.

3. This claim for loss of income damages alleged to be due to the alleged incident at the Kalamazoo Target in this case as set forth in an email with attachments sent by plaintiff counsel to the undersigned on February 18, 2021 and was not in possession of defendant prior to receipt thereof on February 18, 2021.

4. That this notice of removal is filed in a timely and proper manner inasmuch as this notice of removal is filed within thirty (30) days of receipt of the email from plaintiff attorney on February 18, 2021 and within one (1) year of the filing of the lawsuit on September 24, 2020. 28 USC 1446(b)(3).

5. Where the state court rule provides that plaintiff may not aver a specific amount for unliquidated damages, the defendant may remove the case upon receipt of a paper relating to the amount in controversy by which it is first ascertained that the case is or has become removable. 28 USC 1446(c)(2)(A)(ii), (3)(A). Michigan is a state that prohibits a specific amount being demanded for unliquidated damages such as the injury to plaintiff's head and brain, pain and suffering and the like. MCR 2.111(B)(2). Plaintiff complied with this court rule in the Complaint. See Exhibit 1, page 5.

6. That further, this matter may be removed to federal court on the basis of diversity of citizenship under Title 28, United States Code, Section 1332(a)(1) in that plaintiff, KERRY BRIGHAM, is a resident and citizen of the City of

Kalamazoo, County of Kalamazoo and State of Michigan, and defendant is a Minnesota corporation with its principal place of business in Minneapolis, Minnesota and is not a citizen of the State of Michigan in that it is neither incorporated in, nor has its principal place of business in, the State of Michigan.

WHEREFORE, defendant gives notice that the above action now pending against it in the Circuit Court of the County of Kalamazoo, State of Michigan is removed therefrom to this Court.

Respectfully submitted,

/s/ Mark D. Willmarth

BY: MARK D. WILLMARTH (P27967)
Attorneys for Defendant Target
503 S. Saginaw Street, Ste. 1000
Flint, MI 48502
(810) 600-4239
mwillmarthlaw@yahoo.com

DATED: _March 18, 2021_

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF KALAMAZOO

KERRY L. BRIGHAM,

Plaintiff,

-vs-

TARGET CORPORATION,
a domestic profit corporation,

Defendant.

Case No: 2020-0373-NO
Hon. Alexander C. Lipsey

DAVID A. LEWIS (P45069)
Lewis, Reed & Allen, P.C.
Attorneys for Plaintiff
136 E. Michigan Ave., Ste. 800
Kalamazoo, MI 49007
(269) 388-7600

MARK D. WILLMARTH (P27967)
Law Office of Mark D. Willmarth
Attorneys for Defendant Target
503 S. Saginaw Street, Ste. 1000
Flint, MI 48502
(810) 600-4239
mwillmarthlaw@yahoo.com

NOTICE TO STATE COURT AND COUNSEL OF REMOVAL

DAVID A. LEWIS (P45069)
Attorney for Plaintiff

CLERK OF THE COURT
Kalamazoo County Circuit Court

PLEASE TAKE NOTICE that the above-captioned cause has been removed from the Kalamazoo County Circuit Court, State of Michigan, to the United States District Court for the Western District of Michigan, Southern Division, and that attached hereto is a copy of the Notice of Removal which was duly filed on March 18, 2021 in said Court. The case has been assigned to Federal Judge _____ and is designated as Civil Action No. 21-253.

Respectfully submitted,

/s/ Mark D. Willmarth

BY: _____
MARK D. WILLMARTH (P27967)
Attorneys for Defendant Target

Dated: March 18, 2021

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KERRY L. BRIGHAM,

Plaintiff,

Case No: 21-253

-VS-

TARGET CORPORATION,
a domestic profit corporation,

Defendant.

PROOF OF SERVICE

Mark D. Willmarth, being first duly sworn, deposes and says that on the 18th day of March, 2021, he served **NOTICE OF REMOVAL, NOTICE TO STATE COURT AND COUNSEL OF INTEREST OF REMOVAL and PROOF OF SERVICE** upon:

David A. Lewis (P45069)
Lewis, Reed & Allen, P.C.
136 E. Michigan Ave., Ste. 800
Kalamazoo, MI 49007

Clerk of the Court
Kalamazoo County Circuit Court
150 E. Crosstown Parkway
Kalamazoo, MI 49001

By overnight courier to the Kalamazoo County Circuit Court and by first class U.S. Mail to plaintiff attorney with postage fully prepaid.

Respectfully submitted,

/S/ Mark D. Willmarth

By:
MARK D. WILLMARTH (P27967)
Attorney for Defendant
503 S. Saginaw Street, Ste. 1000
Flint, MI 48502
(810) 600-4239

Dated: March 18, 2021